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ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>12 January 2009</u>.

2a)☒ This action is **FINAL**.　　　2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-9,11 and 12</u> is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-9, 11-12</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
　　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　　Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

1.   This is in response to the applicant's communication filed on 01/12/2009, wherein

Claims 1-9, 11-12 are currently pending;

Claim 2 has been amended;

Claim 10 has been cancelled;

Claims 11-12 have been added.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.   Claims 1-9, 11-12 are rejected under 35 U.S.C. 102(b) as being anticipated by

LEYMANN ET AL (US Patent 6,009,405).

        As for independent claim 1, LEYMANN ET AL disclose a method of generating

a computer implemented business process, comprising:

        passing a logical transaction context to an activity invoker (performer) to

instantiate a business activity with the logical transaction context;

        {see col. 7, lines 59-67 "... *activity when invoking said activity, or by passing a*

transaction identifier to an activity when invoking said activity...." ; col.17, lines 1-5;

discusses *a transaction context is passed to an activity*, col. 4, lines 20-30 "….*activities which are performed….*"; and

executing at least one event associated with the business activity within the logical transaction context

{see figures 1-2 and 5, col. 9, lines 1-67, e.g. *during the operating of a transaction, if something goes wrong or there is a failure during the transaction's execution, the transaction application can undo all the operations and the system can cause the transaction's to be rolled back*; and col. 17, lines 15-25 and lines 60-67, col. 18, lines 1-14, discusses *the work items performed within a set of activities are executed within a common transaction context*};

As for the limitation of "an activity factory" in the first step, this is inherently included in the teachings of "activity <u>invoker</u>" or "activity <u>performer</u>" as indicated above since they all have the same function/meaning of "generating an activity".

Note: This appears to be a "data processing" method (see preamble limitation of "computer implemented business process", therefore, the term "*logical*" in the "logical transaction context" have been determined to be non-functional descriptive material (NFDM), thus having no patentable weight and does not need to be taught by the prior art. Nonfunctional descriptive material can not render nonobvious an invention that would have other wise been obvious. In re Gulack, 703 F. 2d 1381, 1385, 217 USPQ 401, 40-4 (Fed. Cir. 1983) (when descriptive material is not functionally related to the substrate, the descriptive material will not distinguish the invention from the prior art in terms of patentability. See MPEP 2106.01.

Note: As for the term "*to instantiate a business activity*", this is not a positively recited method step but, rather as intended use at the entity (activity factory).

As for dep. claim 2, LEYMANN ET AL discloses further comprising passing the logical transaction context to the activity factory to generate an additional business activity having the logical transaction context.

{see figure 5, col. 13, lines 30-62, col. 17, lines 15-25, col. 5, lines 55-60; col. 17, lines 60-67, col. 18, lines 1-14}

As for dep. claim 3, LEYMANN ET AL discloses wherein the first and second business activities form an activity chain {see figure 5; col. 17, lines 15-25 and lines 44-60; discloses set of activities}

As for dep. claim 4, LEYMANN ET AL discloses wherein the logical transaction context spans multiple transactions {see figure 5, col. 3, lines 21-22; col. 5, lines 55-60; discloses *multiple transaction work items, or chained transaction*};

As for dep. claim 5, LEYMANN ET AL discloses wherein executing the at least one event associated with the business activity occurs on a serer {see abstract; executes network of potentially distributed activities or events}

As for dep. claim 6, LEYMANN ET AL disclose wherein the business activity also takes an activity instance identifier {see col. 7, lines 59-67; transaction identifier to an activity}

As for dep. claim 7, LEYMANN ET AL disclose wherein the business activity is instantiated by an entity {see col. 12, lines 6-14; an activity represents a business action that is from a certain entity}

As for dep. claims 8-9, which deal with the features of the business activity

when instantiated, by a process, this is taught in col. 11, lines 60-67, "....instantiated ...

process model....business process....". As for the type of process, a static or a

dynamic process, this does not appear to be essential to the property of the business

activity and is inherently included in the process of LEYMANN ET AL. Moreover, this is

not a positive limitation and has little or no patentable weight in a method claim since

how does the <u>type</u> of process affect the business activity differently?

As for independent claim 11, LEYMANN ET AL disclose a method of

generating a computer implemented business process, comprising:

passing a logical transaction context to an activity invoker (performer) to

instantiate a business activity with the logical transaction context;

{see col. 7, lines 59-67 "*… activity when invoking said activity, or by passing a*

transaction identifier to an activity when <u>invoking</u> said activity…." ; col.17, lines 1-5;

discuses *a transaction context is passed to an activity*, col. 4, lines 20-30 "*….activities*

which are performed…."; and

instantiating a business activity or creating an instance of a class/object with the

logical transaction context;

{see col. 11, lines 44-64;col. 13, lines 40-67, col. 15, lines 60-67, discloses *a*

process model can be instantiated depending on the context of the instantiation of the

model, can be determined such a model of a business process can be perceived as a

template for a class}

executing at least one event associated with the business activity within the

logical transaction context

{see figures 1-2 and 5, col. 9, lines 1-67, e.g. *during the operating of a*

transaction, if something goes wrong or there is a failure during the transaction's

execution, the transaction application can undo all the operations and the system can

cause the transaction's to be rolled back; and col. 17, lines 15-25 and lines 60-67, col.

18, lines 1-14, discuses *the work items performed within a set of activities are executed*

within a common transaction context};

As for the limitation of "an activity factory" in the first step, this is inherently

included in the teachings of "activity <u>invoker</u>" or "activity <u>performer</u>" as indicated above

since they all have the same function/meaning of "generating an activity".

Note: This appears to be a "data processing" method (see preamble limitation of

"computer implemented business process", therefore, the term *"logical"* in the "logical

transaction context" have been determined to be non-functional descriptive material

(NFDM), thus having no patentable weight and does not need to be taught by the prior

art. Nonfunctional descriptive material can not render nonobvious an invention that

would have other wise been obvious. In re Gulack, 703 F. 2d 1381, 1385, 217 USPQ

401, 40-4 (Fed. Cir. 1983) (when descriptive material is not functionally related to the

substrate, the descriptive material will not distinguish the invention from the prior art in

terms of patentability. See MPEP 2106.01.

As for dep. claim 12, basically this claim has the same limitation as dep. claim 2

above. It is rejected for the same reason sets forth dep. claim 2 above.

Response to Arguments

4. Applicant's arguments filed on 01/12/09 have been fully considered but they are

not persuasive.

As for the argument on page 5 of the remark, Applicant states that LEYMANN

discloses the passing a logical transaction context to an activity but does not disclose

the passing a logical transaction context to <u>an activity factory</u>. The Examiner

respectfully disagrees. LEYMANN disclose "passing a logical transaction context to an

activity invoker (performer) {see col. 7, lines 59-67 *"... activity when invoking said*

activity, or by passing a transaction identifier to an activity when <u>invoking</u> said

activity...." ; col.17, lines 1-5; discuses *a transaction context is passed to an activity*, col.

4, lines 20-30 *"....activities which are performed...."*. As for the term "activity factory",

the claim language failed to provide specific structural and functional distinctions

between the claimed invention of the reference. However, this feature is inherently

included in the teachings of "activity <u>invoker</u>" or "activity <u>performer</u>" as indicated above

since they all have the same function/meaning of "generating an activity".

As for the argument on page 5 of the remark, Applicant states that LEYMANN

does not disclose passing the logical transaction context to the activity factory to

generate an additional business activity. The Examiner respectfully disagrees.

LEYMANN discloses in figure 5 the set of activities or plurality activities which are

connected via path or groups of activities within the process model, see col. 5, lines 55-

67, , col. 13, col. 17, lines 15-25, col. 5, lines 55-60; col. 17, lines 60-67, col. 18, lines

1-14 and   col.17, lines 1-5; discuses *a transaction context is passed to an activity*, col.

4, lines 20-30 "*....activities which are performed....*".

As for the argument on page 6 of the remark, Applicant states that LEYMANN

does not disclose "wherein the business activity is instantiated by a static process" as

recited in dep. claim 8. The Examiner respectfully disagrees. As for claims 8-9 which

deal with the features of the business activity when instantiated, by a process, this is

taught in col. 11, lines 60-67, "....instantiated ... process model....business process....".

As for the type of process, a static or a dynamic process, this does not appear to be

essential to the property of the business activity and is inherently included in the

process of LEYMANN ET AL. Moreover, this is not a positive limitation and has little or

no patentable weight in a method claim since how does the type of process affect the

business activity differently?

Conclusion

5.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy-Vi Nguyen whose telephone number is 571-270-1614. The examiner can normally be reached on Monday through Thursday from 8:30 A.M to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janice Mooneyham can be reached on 571-272-6805. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. N./

Examiner, Art Unit 3689

/Tan Dean D. Nguyen/
Primary Examiner, Art Unit 3689
4/18/09